

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

OMAR RASHAD POUNCY,

Petitioner,

v.

Case No. 13-cv-14695  
Hon. Matthew F. Leitman

CARMEN D. PALMER,

Respondent.

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**ORDER DENYING PETITIONER’S MOTION TO COMPLY WITH  
SIXTH CIRCUIT’S MANDATE TO ADDRESS PETITIONER’S  
28 U.S.C. §2254(d)(2) ARGUMENTS (ECF No. 482)**

In January of 2016, this Court granted a writ of habeas corpus to Petitioner Omar Rashad Pouncy. (*See* Opinion and Order, ECF No. 74.) The Sixth Circuit later reversed the grant of habeas relief and remanded to this Court for further proceedings. *See Pouncy v. Palmer*, 846 F.3d 144 (6th Cir. 2017). Thereafter, on June 28, 2021, this Court issued a limited grant of habeas relief in favor of Pouncy and declined to grant the full relief he requested. (*See* Opinion and Order, ECF No. 401.) Now before the Court is a motion in which Pouncy contends that the Court failed to comply with the direction in the Sixth Circuit’s mandate that on remand the Court address Pouncy’s arguments under 28 U.S.C. § 2254(d)(2). The motion is **DENIED.**

Pouncy has not persuaded the Court that the Court violated the mandate rule when the Court did not address his arguments under 28 U.S.C. §2254(d)(2). Moreover (and in any event), even if the Court did violate the mandate rule, the Court is not free now to grant relief on Pouncy's arguments under 28 U.S.C. § 2254(d)(2). The Court lacks the power to do so because both sides have appealed from the Court's order dated June 28, 2021, and the case is pending before the Sixth Circuit. At this point, the most the Court can do is to issue an indicative ruling stating how it would resolve Pouncy's arguments under 28 U.S.C. § 2254(d)(2) if the Sixth Circuit were to remand the action to this Court once again. The Court intends to do just that.

Accordingly, **IT IS HEREBY ORDERED** that Pouncy's Motion to Comply with Sixth Circuit's Mandate to Address Petitioner's 28 U.S.C. 2254(d)(2) Arguments is **DENIED**.

**IT IS SO ORDERED.**

Dated: January 23, 2025

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 23, 2025, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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